

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

J & J SPORTS PRODUCTIONS, INC.)	
)	
Plaintiff,)	
)	
vs.)	No. 13-CV-771-TCK-TLW
)	
JOSE AGUIRRE, Individually and d/b/a)	
AGAVE MEXICAN GRILL AND)	
TEQUILA BAR, and)	
AGAVE, LLC, an Oklahoma Corporation)	
d/b/a AGAVE MEXICAN GRILL AND)	
TEQUILA BAR,)	
)	
Defendants.)	

OPINION AND ORDER

Before the Court is Plaintiff's Motion for Default Judgment (Doc. 14). Plaintiff J & J Sports Productions, Inc. ("Plaintiff") filed a Complaint against Defendants Jose Aguirre, individually and d/b/a Agave Mexican Grill and Tequila Bar, and Agave, LLC ("Defendants") alleging that Defendants unlawfully intercepted and exhibited a program without paying Plaintiff the requisite licensing fees to exhibit the program. Upon motion by Plaintiff, the Court Clerk entered default against Defendant on May 28, 2014 (Doc. 13). On June 3, 2014, Plaintiff filed the instant Motion for Default Judgment in the amount of \$110,000, plus fees and costs. Defendants filed a response in opposition to Plaintiff's motion, claiming that Plaintiff had not properly effectuated service on either of the Defendants.

Default judgments are disfavored. *See Gomes v. Williams*, 420 F.2d 1364, 1366 (10th Cir. 1970) ("The preferred disposition of any case is upon its merits and not by default judgment."). Defendants have now appeared in the case, making the disposition of this case on the merits an option. Accordingly, Plaintiff's Motion for Default Judgment (Doc. 14) is denied. Additionally,

pursuant to Rule 55(c) of the Federal Rules of Civil Procedure and for good cause shown, the Court *sua sponte* sets aside the default entered by the Court Clerk on May 28, 2014 (Doc. 13). Defendants shall file a responsive pleading no later than September 30, 2014.

SO ORDERED this 16th day of September, 2014.


TERENCE KERN
United States District Judge